

STATE OF MICHIGAN
COURT OF APPEALS

HAROLD P. SANCHEZ,

Plaintiff/Counterdefendant-
Appellee,

V

TERESA A. SANCHEZ,

Defendant/Counterplaintiff-
Appellant.

UNPUBLISHED

June 19, 2003

No. 234965

Saginaw Circuit Court

LC No. 99-030267-DM

Before: Fitzgerald, P.J., and Hoekstra and O'Connell, JJ.

HOEKSTRA, J., (*concurring in part; dissenting in part*).

I respectfully dissent because the property settlement in this case, in my opinion, is not fair and equitable.

Initially, I disagree with the statement in the majority opinion that “the trial court’s finding that the majority of the settlement in the personal injury suit was awarded for pain and suffering is not clearly erroneous.” The trial court’s opinion only states that “a portion” of the settlement was to compensate plaintiff for pain and suffering. What portion was never determined and clearly the settlement was one to compensate their joint claims. On this record, unlike the majority, I find no basis to award plaintiff most of the settlement proceeds simply because plaintiff was the injured party.

Regarding the property settlement itself, it is indisputable that plaintiff was awarded a significantly larger portion of the parties assets. I agree that plaintiff’s disability compared to defendant’s work ability provides a reasonable basis for awarding plaintiff the monthly income from the Transamerica annuity. However, I believe that the other assets of the parties and, in particular, the marital home, the two vacant lakefront lots, the Salomon Smith Barney investment accounts and the two Transamerica annuities that are to be distributed by annual lump sum payments should have been divided equally.

Regarding the other issues raised on appeal, I join with the majority.

/s/ Joel P. Hoekstra